

including, but not limited to, cremation, burial at sea, and medical school donation.

(c) *Cross references.* (1) Other benefits and services related to the memorialization or interment of a deceased veteran and certain survivors include the following:

(i) Burial in a national cemetery (see §§ 38.600 and 38.617 through 38.629 of this chapter);

(ii) Presidential memorial certificates (see 38 U.S.C. 112);

(iii) Burial flags (see § 1.10 of this chapter); and

(iv) Headstones or markers (see §§ 38.630 through 38.633 of this chapter).

(2) The provisions of §§ 3.1702 through 3.1711 do not apply to any of the programs listed in paragraph (c)(1) of this section.

§ 3.1701 Deceased veterans for whom VA may provide burial benefits.

For purposes of providing burial benefits under subpart B of this part, the term “veteran” means the same as provided in 38 U.S.C. 101(2). A veteran must be deceased, and burial benefits for that veteran must be authorized by a specific provision of law. For purposes of the non-service-connected burial allowance under 38 U.S.C. 2302, the term “veteran” includes a person who died during a period deemed to be active military, naval, or air service under §§ 3.6(b)(7), 3.7(m) and 3.7(o).

(Authority: 38 U.S.C. 101(2), 2302, 2303, 2307, 2308)

§ 3.1702 Persons who may receive burial benefits; priority of payments.

(a) *Automatic payments to eligible surviving spouse.* On or after July 7, 2014, VA will automatically pay a burial benefit to an eligible surviving spouse when VA is able to determine eligibility based on evidence of record as of the date of the veteran's death. VA may grant additional burial benefits, including the plot or interment allowance, reimbursement for transportation, and the service-connected burial allowance under § 3.1704, to the surviving spouse or any other eligible person in accordance with paragraph (b) of this section and based on a claim described in § 3.1703.

(b) *Priority of payments—claims received on or after July 7, 2014.* (1) Except for claims a State, or an agency or political subdivision of a State, files under § 3.1707, Plot or interment allowance for burial in a State veterans cemetery or other cemetery, or § 3.1708, Burial of a veteran whose remains are unclaimed, VA will pay, upon the death of a veteran, the first living person to file of those listed below:

(i) His or her surviving spouse;

(ii) The survivor of a legal union between the deceased veteran and the survivor that is

not covered by paragraph (b)(1)(i) of this section. For purposes of this paragraph, *legal union* means a formal relationship between the decedent and the survivor that

(A) Existed on the date of the veteran's death,

(B) Was recognized under the law of the State in which the couple formalized the relationship, and

(C) Was evidenced by the State's issuance of documentation memorializing the relationship;

(iii) His or her children, regardless of age;

(iv) His or her parents or the surviving parent; or

(v) The executor or administrator of the estate of the deceased veteran. If no executor or administrator has been appointed, VA may pay burial benefits based on a claim filed by a person acting for such estate who will distribute the burial benefits to the person or persons entitled to such distribution under the laws of the veteran's last State of residence.

(2) In the case of a veteran whose remains are unclaimed, VA will pay the person or entity that provided burial services and transportation subject to the limitations prescribed in §§ 3.1708 and 3.1709.

(3) VA will pay burial benefits to a single representative of the categories in paragraph (b)(1) of this section. VA will not divide applicable burial benefits among claimants; it is the responsibility of the recipient to distribute benefits as may be required.

(c) *Priority of payments—claims received before July 7, 2014.*

(1) Claims for burial allowance may be executed by:

(i) The funeral director, if entire bill or any balance is unpaid (if unpaid bill or the unpaid balance is less than the applicable statutory burial allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The individual whose personal funds were used to pay burial, funeral, and transportation expenses; or

(iii) The executor or administrator of the estate of the veteran or the estate of the person who paid the expenses of the veteran's burial or provided such services. If no executor or administrator has been appointed then by some person acting for such estate who will make distribution of the burial allowance to the person or persons entitled under the laws governing the distribution of interstate estates in the State of the decedent's personal domicile.

(2) Claims for the plot or interment allowance (except for claims filed by a State or an agency or political subdivision thereof), under § 3.1707 may be executed by:

(i) The funeral director, if he or she provided the plot or interment services, or advanced funds to pay for them, and if the entire bill for such or any balance thereof is

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unpaid (if the unpaid bill or the unpaid balance is less than the statutory plot or interment allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The person(s) whose personal funds were used to defray the cost of the plot or interment expenses; or

(iii) The person or entity from whom the plot was purchased or who provided interment services if the bill for such is unpaid in whole or in part. An unpaid bill for a plot will take precedence in payment of the plot or interment allowance over an unpaid bill for other interment expenses or a claim for reimbursement for such expenses. Any remaining balance of the plot or interment allowance may then be applied to interment expenses; or

(iv) The executor or administrator of the estate of the veteran or the estate of the person who bore the expense of the plot or interment expenses. If no executor or administrator has been appointed, claim for the plot or interment allowance may be filed as provided in paragraph (c)(1)(iii) of this section for the burial allowance.

(Authority: 38 U.S.C. 2302, 2303, 2307)

Cross Reference: §3.1(i) for the definition of "State".

§3.1703 Claims for burial benefits.

(a) *When claims must be filed*—(1) *General rule.* Except as provided in paragraph (a)(2) of this section, VA must receive a claim for the non-service-connected burial allowance no later than 2 years after the burial of the veteran. There are no other time limitations to file claims for burial benefits under subpart B of this part.

(2) *Correction of character of discharge.* If the non-service-connected burial allowance was not payable at the time of the veteran's death or burial because of the character of the veteran's discharge from service, VA may pay the allowance if a competent authority corrects the deceased veteran's discharge to reflect a discharge under conditions other than dishonorable. Claims for the non-service-connected burial allowance must be filed no later than 2 years after the date that the discharge was corrected.

(b) *Supporting evidence*—(1) *General rule.* In order to pay burial benefits, VA must receive all of the following:

(i) A claim, except as provided in §3.1702(a);

(ii) Proof of the veteran's death in accordance with §3.211, Death; and

(iii) For persons listed under §3.1702(b), except as provided in §3.1702(a), a statement certifying that the claimant incurred burial, plot or interment, or transportation costs of the deceased veteran.

(2) *Reimbursement of transportation expenses.* In order to pay transportation costs, VA must receive a receipt, preferably on letterhead, showing who paid the costs, the name

of the deceased veteran, the specific transportation expenses incurred, and the dates of the services rendered.

(3) *Eligibility based on evidence of record.* VA may establish eligibility for benefits in this subpart based upon evidence of service and disability that VA relied upon to grant disability compensation or pension during the veteran's lifetime, unless VA has some other evidence on the date that it receives notice of the veteran's death that creates doubt as to the correctness of that evidence.

(The information collection requirements in this section are approved by the Office of Management and Budget under control number 2900-0003.)

(Authority: 38 U.S.C. 2304, 5107(a))

BURIAL BENEFITS: ALLOWANCES & EXPENSES PAID BY VAA08SE3.

§3.1704 Burial allowance based on service-connected death.

(a) *General rule.* VA will pay the maximum burial allowance specified in 38 U.S.C. 2307 for the burial and funeral expenses of a veteran described in paragraph (b) of this section, unless VA has evidence on the date it receives notice of the veteran's death that the expenses incurred were less than that amount. Payment of the service-connected burial allowance is in lieu of other allowances authorized by subpart B of this part, except those allowances listed in paragraph (c) of this section.

(b) *Eligibility.* A burial allowance is payable under this section for a veteran who died as a result of a service-connected disability or disabilities. VA will presume, unless it has evidence to the contrary on the date it receives notice of the veteran's death, that a veteran died as a result of a service-connected disability or disabilities if, at the date of death, the veteran was rated totally disabled for a service-connected disability or disabilities, excluding a total disability rating based on individual unemployability.

(c) *Additional allowances available based on service-connected death.* In addition to the service-connected burial allowance authorized by this section:

(1) VA may reimburse for transportation expenses related to burial in a national cemetery under §3.1709, Transportation expenses for burial in a national cemetery; and

(2) VA may pay the plot or interment allowance for burial in a State veterans cemetery under §3.1707(a), Plot or interment allowance.

(Authority: 38 U.S.C. 2303, 2307, 2308)

Cross Reference: §3.1(i), for the definition of "State".